

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

PATRICK HENRY MURPHY,

Petitioner,

V.

RICK THALER,
Director, Texas Department of
Criminal Justice, Correctional
Institutions Division.

Respondent.

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**CIVIL ACTION NO. 3:09-cv-01368-L**  
**ECF**  
**(Death Penalty Case)**

**MOTION FOR LEAVE TO FILE EX PARTE APPLICATION UNDER SEAL**

Patrick Henry Murphy, Petitioner, pursuant to Local Rule 79.3 of the United States District Court for the Northern District of Texas, asks this Court for leave to file *ex parte* and under seal his application for an order authorizing the release of certain mental health records. *See Patrick v. Johnson*, 37 F.Supp. 2d 815 (N.D. Tex. Mar. 8, 1999); *Shields v. Johnson*, 48 F.Supp. 2d 719 (S.D. Tex. May 7, 1999); *Dowthitt v. Johnson*, No. H-98-3282, 1998 WL 1986954 (S.D. Tex. Dec. 3, 1998). This motion has been filed and served to opposing counsel. Mr. Murphy asks this Court for leave to file his more detailed application under seal. Should the Court deny Mr. Murphy's request, he asks for an opportunity to withdraw the *ex parte* motion filed herewith.

A petitioner demonstrates the need for confidentiality in making his requests for reasonably necessary services by specifying the services needed and the broad issue or topic for which the services are required. *See Dowhitt*, 1998 WL 1986954, at \*6 (“The statement of need for confidentiality merely must identify generically the type of services needed and the broad issues or topic (e.g. innocence) for which the services are necessary.”). In the instant case, Petitioner seeks an order authorizing the release of the requested mental health records and all underlying data in order to develop potential claims relating to his punishment trial.

The requested order for authorization is reasonably necessary for the representation of Mr. Murphy in this proceeding. Petitioner asks this Court for leave to file his more detailed motion *ex parte* and under seal.

DATED: November 17, 2009  
Houston, TX

Respectfully submitted,

/s/ David R. Dow

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*Counsel for Patrick Henry Murphy*

**CERTIFICATE OF CONFERENCE**

No conference has been held because opposing counsel has not made an appearance in these proceedings.

/s/ David R. Dow

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David R. Dow

**CERTIFICATE OF SERVICE**

On November 18, 2009, I served a copy of the foregoing pleading on the Office of the Attorney General by United States mail at the following address:

Office of the Attorney General  
Post Office Box 12548  
Austin, Texas 78711-2548

/s/ David R. Dow

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David R. Dow